IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

WP(C).No. 41067 of 2003(L)

PETITIONER:

M/S.KAVUNGAL OIL MILLS,
ELANJIPRA,CHALAKUDY,
REP.BY ITS PROPRIETOR,K.I.ANTONY.

BY ADV. SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN

RESPONDENTS:
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1. KERALA STATE ELECTRICITY BOARD,
REP.BY ITS SECRETARY,
VYDYUTHI BHAVAN,PATTOM,
THIRUVANANTHAPURAM.

2. EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL DIVISION,
CHALAKUDY.

3. ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
ELECTRICAL MAJOR SECTION,
CHALAKUDY.

BY ADV. SRI.C.K.KARUNAKARAN,SC.KSEB.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE REPRESENTATION DATED 14.1.2002 FILED BY THE PETITIONER BEFORE THE THIRD RESPONDENT.

EXT.P2 TRUE COPY OF THE DEMAND DATED 15.6.2003

EXT.P3 TRUE COPY OF THE APPEAL DATED 21.6.2003 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT.P4 TRUE COPY OF THE JUDGMENT DATED 25.6.2003 IN WPC NO. 19960 OF 2003

EXT.P5 TRUE COPY OF THE A.G.'S REPORT ALONG WITH THE CALCULATION SHEET DATED 4.6.2003

EXT.P6 TRUE COPY OF THE ARGUMENT NOTES DATED 17.9.2003

EXT.P7 TRUE COPY OF THE ORDER DATED 20.12.2003 ISSUED BY THE 2ND RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 41067 OF 2003

Dated this the 13th day of March, 2007

JUDGMENT

Petitioner is challenging Ext.P7 order in appeal, by which the Executive Engineer of KSEB has confirmed an additional demand of Rs. 41,797/- for alleged short recording of power consumption during the period September, 2001 to January, 2002 during which period the meter was stated to be defective. Counsel for the petitioner submitted that on the day when meter became defective, the same was brought to the notice of the Board, which immediately replaced the meter. Therefore according to him, the meter has recorded full consumption and there is no scope for raising bill for short demand. Standing counsel for KSEB submitted that meter was defective is admitted by petitioner and it was in fact replaced. According to hi, additional bill is raised based on average consumption recorded after installation of new meter. Counsel for the petitioner rightly pointed out that average consumption adopted by the Executive Engineer in Ext.P7 is from September to December 2001 at 5717 units is incorrect because the

figures shown in Ext.P7 would show average consumption of around 7000 units for the said period. This single mistake justifies interference with Ext.P7. Moreover, it is seen that pattern of consumption recorded during September to December, 2001 is also not even which may go to establish petitioner's case that February 2001 was lean period when the consumption was only 2952 units because for previous and subsequent months, the consumption recorded is at the same levels as recorded in the new meter after replacement. In the circumstances, I dispose of the W.P. setting aside Ext.P7 and with direction to the Executive Engineer to reconsider the matter after hearing the petitioner and to sustain the demand only if there is any consumption unrecorded on account of defect in meter.

(C.N.RAMACHANDRAN NAIR)
Judge